



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

AMENDMENT TO

SPECIAL ORDER BY CONSENT

ISSUED TO

TOWN OF MIDDLETOWN

(VPDES Permit No. VA0020982)

SECTION A: Purpose

This is an Amendment to a Consent Special Order (hereinafter referred to as the Amendment) issued under the authority of Va. Code § 62.1-44.15(8a), between the State Water Control Board and the Town of Middletown ("Middletown" or "the Town") for the purpose of revising certain provisions of that Consent Special Order (hereinafter referred to as the 2003 Order) issued by the State Water Control Board to the Town of Middletown on March 27, 2003.

SECTION B: Basis for Amendment

1. The 2003 Order required Middletown to upgrade the Facility to meet final effluent limitations.
2. At the time the 2003 Order was being negotiated, Middletown was close to exceeding the Permit's design flow capacity for the Facility. The Town wanted to include higher flow tiers in the Permit for design capacities of 0.35 MGD and 0.40 MGD, which required a Permit modification to incorporate limitations for those flow tiers.

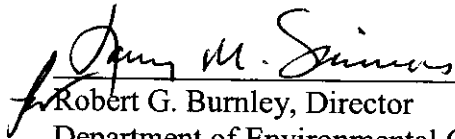
3. The 2003 Order required Middletown to submit to DEQ for review and approval a P.E.R. for the Facility upgrade within 30 days of receipt of the proposed effluent limitations contained in the draft Permit modification. The 2003 Order also required the Town to submit to DEQ for review and approval the plans and specifications for the Facility upgrade by July 31, 2003.
4. Subsequent to the issuance of the 2003 Order, the draft Permit modification received many comments when it went to public notice, including a request for a public hearing. There was a good deal of opposition to the Town constructing a new Facility as per the 2003 Order and the Permit. The Town had to reevaluate its original design and its options to meet the new effluent limitations including ammonia. The Town requested its consultant to review and reevaluate all of the Town's options. This reevaluation process and the selection of a new Facility design delayed the Town from complying with the requirements of the 2003 Order.
5. Following the Permit's public notice and design reevaluation processes, the Town presented to DEQ a PER for an experimental low cost upgrade. The Town's design-company was advised that a performance bond is required for experimental systems. The design-company did not obtain a performance bond and withdrew its proprietary design for the upgrade.
6. On December 15, 2004, DEQ requested that the Town submit a new plan and schedule for incorporation into an amendment to the 2003 Order.
7. By letter dated December 23, 2004, Middletown submitted to DEQ a proposed schedule of compliance that utilizes different upgrade technology, which is included in Appendix A of this Amendment.
8. DEQ issued Notice of Violation No. W2005-01-V-0007 on January 24, 2005, to Middletown for failure to comply with the requirements of the 2003 Order to submit approvable plans and specifications for the Facility upgrade/expansion. The NOV also cited the apparent failure to submit water quality standards monitoring due by November 10, 2004, and failure to submit the 3rd annual progress report on the status of complying with final limits contained in the Permit due by September 30, 2004.
9. The Permit reissued effective October 1, 2001, included a four-year schedule of compliance to meet more stringent TSS and ammonia final effluent limitations than those included in the previous Permit. The 2001 Permit requires the Facility to comply with those final limits by September 30, 2005.
10. The 2003 Order was issued primarily to address the violations of the less stringent ammonia effluent limitations in place at the time. However, the 2003 Order also anticipated that the required Facility upgrade would be completed and the Town would be meeting the more stringent TSS and ammonia final limits before the Permit's compliance date of September 30, 2005.

11. The schedule of compliance contained in the 2003 Order was not met and it is necessary to amend that Order. Both the Town and DEQ also recognize that the Town will not be able to comply with the 2001 Permit's final compliance date and it will be necessary to construct a Facility upgrade to meet the Permit's new and more stringent limits for both TSS and ammonia.
12. Given the foregoing, the State Water Control Board and Middletown agree that it is appropriate to amend the 2003 Order as described below.

SECTION C: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in §62.1-44.15(8a), orders Middletown and Middletown agrees to perform the actions described in Appendix A, Appendix B and Appendix C of this Amendment, which supercede Appendix A and Appendix B of the 2003 Order. Both the Board and Middletown understand and agree that this Amendment does not alter, modify, or amend any other provision of the Order.

And it is so ORDERED this day of May, 2005.



Robert G. Burnley, Director
Department of Environmental Quality

Town of Middletown voluntarily agrees to the issuance of this Order.

By: Gene T. Dicks

Title: MAYOR

Date: MARCH 14, 2005

Commonwealth of Virginia

City/County of FREDERICK

The foregoing document was signed and acknowledged before me this

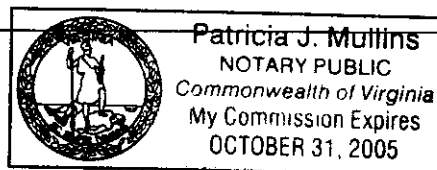
14th day of MARCH, 2005, by Gene T. Dicks,
(name)

who is MAYOR of the Town of Middletown, on behalf of the Town of
Middletown.

(title)

Patricia Mullins
Notary Public

My commission expires: _____



**APPENDIX A
SCHEDULE OF COMPLIANCE
TOWN OF MIDDLETOWN**

1. **By March 15, 2005**, Middletown shall submit to DEQ for review and approval plans and specifications for the Facility **upgrade to meet the final effluent limitations contained in the Permit**. Middletown shall respond to any comments on the plans and specifications within **30 days** of receipt of written comments.
2. **Within 30 days** of approval of the plans and specifications for the Facility upgrade, Middletown shall advertise for bids for construction of the approved Facility upgrade.
3. **Within 90 days** of approval of the plans and specifications for the Facility upgrade, Middletown shall begin construction of the approved Facility upgrade.
4. **Within 270 days** of beginning construction of the approved Facility upgrade, Middletown shall complete construction of the upgrade and submit to DEQ for review and approval a revised O&M Manual and SMP for the operation of the upgraded Facility. Middletown shall also submit to DEQ for review and approval a closure plan for any abandoned portions of the Facility. Middletown shall respond to any comments on the O&M Manual, SMP or closure plan within **30 days** of receipt of written comments.
5. **Within 30 days** of completing construction of the Facility upgrade, Middletown shall request a Certificate to Operate for the Facility upgrade.
6. **Within 60 days** of issuance of the Certificate to Operate for the Facility upgrade, Middletown shall comply with the Permit's final effluent limitations. Middletown shall address any deficiencies in the CTO **within 30 days** of receipt of written comments.
7. **Within 180 days** of completing construction of the Facility upgrade, Middletown shall complete any needed closure of any unused treatment units in accordance with an approved closure plan.
8. Middletown shall submit quarterly progress reports to DEQ, with the first report being due by **April 10, 2005**. Subsequent progress reports will be due by **July 10, October 10, and January 10, and April 10**, along with the Facility's Discharge Monitoring Report until the cancellation of the Order. The quarterly progress reports shall contain:
 - a. a summary of all work completed since the previous progress report in accordance with this Order;
 - b. a projection of the work to be completed during the upcoming quarter in accordance with this Order; and

- c. a statement regarding any anticipated problems in complying with this Order.
9. No later than **14 days** following a date identified in the above schedule of compliance Middletown shall submit to DEQ's Valley Regional Office a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled item.

APPENDIX B: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning with the effective date of this Amendment and lasting until September 30, 2005, Middletown shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u> mg/l	<u>Weekly Average</u> kg/d	<u>Min.</u> kg/d	<u>Max.</u>	<u>Frequency</u> <u>Sample Type</u>
Ammonia	28.0	NL	28.0	NA	1/M 8HC

NA = Not Applicable
NL = No Limit

APPENDIX C: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning October 1, 2005 and lasting until the completion of the Facility upgrade as required in Appendix A, Middletown shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u> mg/l	<u>Weekly Average</u> kg/d	<u>Min.</u> kg/d	<u>Max.</u> kg/d	<u>Frequency</u> Sample Type
TSS	41	39	62	59	NA 3 D/Week 8HC
Ammonia	28.0	NL	28.0	NL	NA 1/M 8HC

NA = Not Applicable
NL = No Limit